

## PROPOSED TEXT

### 32091. Electronic Filing.

(a) “Electronic filing” or “filing by electronic mail” means the transmission of a document to PERB via an electronic mail (e-mail) message.

(b) Electronic filing must be directed to the e-mail address currently published by PERB for that purpose on its website.

(c) Any attachments to an electronic filing shall be in PDF format and the total size of any e-mail message, including attachments, shall not exceed 3 MB, unless the files are compressed (in a zip file format).

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3563, 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3563, 3563.2, 71639.1 and 71825, Government Code, and Sections 99561 and 99561.2, Public Utilities Code.

### 32132. Extension of Time.

(a) A request for an extension of time within which to file any document with the Board itself shall be in writing and shall be filed at the headquarters office at least three days before the expiration of the time required for filing. The request shall indicate the reason for the request and, if known, the position of each other party regarding the extension. Service and proof of service pursuant to Section 32140 are required. Extensions of time may be granted by the Board itself or an agent designated by the Board itself for good cause only.

(b) No extensions of time shall be granted in cases before the Board itself that are subject to the limitations described in Section 32305(b).

(c) A request for an extension of time within which to file any document with a Board agent shall be in writing and shall be filed with the Board agent at least three days before the expiration of the time required for filing. The request shall indicate the reason for the request and, if known, the position of each other party regarding the extension and shall be accompanied by proof of service of the request upon each party. Extensions of time may be granted by the Board agent for good cause only.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3509.3, 3513(h), 3520.8, 3541.3(n), 3541.35, 3563(m), 3563.5, 71639.1, 71639.15, and 71825, and 71825.05, Government Code; and ~~Section~~ Sections 99561(m) and 99561.4, Public Utilities Code.

32135. Filing.

(a) All documents shall be considered “filed” when the originals, and the required number of copies, if any, are actually received by the appropriate PERB office during a regular PERB business day. All documents, except for proof of support as described in sections 32700, 61020, 81020 and 91020, must also be accompanied by proof of service pursuant to Section 32140.

(b) All documents, except proof of support as described in sections 32700, 61020, 81020 and 91020, shall also be considered “filed” when received during a regular PERB business day by facsimile transmission at the appropriate PERB office together with a Facsimile Transmission Cover Sheet, or when received by electronic mail in accordance with Section 32091 ~~on-line filing as defined in Section 32613.~~

(c) A party filing documents by facsimile transmission or by ~~on-line filing~~ electronic mail must also deposit the original, together with the required proof of service and the required number of copies, in the U.S. mail or with a delivery service for delivery to the appropriate PERB office.

(d) A facsimile or electronic mail filing shall ~~be accompanied by a Facsimile Transmission Cover Sheet which~~ includes the following information:

- (1) The name of the party serving or filing papers ~~by fax~~ and the name and telephone number of the agent transmitting the document ~~by facsimile transmission~~;
- (2) The name or title of the document being transmitted and the number of pages;
- (3) The date and time of the transmission;
- (4) The PERB case number, if any.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(n), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code.

32140. Service.

(a) All documents referred to in these regulations requiring “service,” except subpoenas, shall be considered “served” by the Board or a party when personally delivered, when deposited in the mail or with a delivery service properly addressed, ~~or~~ when sent by facsimile transmission in accordance with the requirements of Sections 32090 and 32135(d), or when sent by electronic mail in accordance with the requirements of Section 32091, 32135(d) and 32140(b). All documents required to be served shall include a “proof of service” declaration signed under penalty of perjury which contains the following information: (1) The name of the declarant; (2) the county and state in which the declarant is employed or resides; (3) a statement that the

declarant is over the age of 18 years ~~and not a party to the case~~; (4) the address of the declarant; (5) a description of the documents served; (6) the method of service and a statement that any postage or other costs were prepaid; (7) the name(s), address(es) and, if applicable, fax number(s) or electronic mail address(es) used for service on the party(ies); and (8) the date of service.

(b) Electronic service of a document is authorized only when a party has agreed to accept service electronically in that action. A party indicates that the party agrees to accept electronic service by:

(1) Serving a notice on all parties that the party accepts electronic service and filing the notice with the Board. The notice must include the electronic mail address at which the party agrees to accept service; or

(2) Electronically filing any document with the Board. The act of electronic filing is evidence that the party agrees to accept service at the electronic mail address the party has furnished to the Board.

(c) Whenever “service” is required by these regulations, service shall be on all parties to the proceeding and shall be concurrent with the filing in question.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(n), 3563(m), 71639.1 and 71825, Government Code; and Section 99561(m), Public Utilities Code.

32147. Expediting Matters Before the Board.

The Board itself, the Chief Administrative Law Judge or the General Counsel may expedite any matter pending before the Board ~~pursuant to policy established by the Board itself,~~ as follows:

(a) In any case arising under Section 32761, 32770, 32781, 33050, 33070, 33700, 40170, 40200, 51030, 51040, 51100, 51680, 61210, 61300, 61350, 61400, 61450, 71030, 71040, 71100, 71680, 81210, 81300, 81350, 81400, 81450, 91210, 91300, 91350, 91400, or 91450;

(b) In any case that presents an important question of law or policy under any statute administered by the Board, the early resolution of which is likely to improve labor relations between or among affected parties;

(c) In conjunction with any determination to seek injunctive relief pursuant to Section 32450 et seq.;

(d) In any case, as ordered or directed by the Board itself.

For purposes of this Section, the expediting of a matters in the case of the Board itself means the matter shall be given priority and decided on an expedited basis, in the manner determined to be appropriate by, as applicable, the Board itself, the General Counsel, or the Chief Administrative Law Judge.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(n), 3563(m), 71639.1 and 71825, Government Code, and Section 99561(m), Public Utilities Code.

~~32160~~ 32169.           Depositions.

The Board may order the taking of testimony of a material witness within or outside the State by deposition in the manner prescribed for civil actions only upon the filing of an application by a party showing that:

(a) The witness is unable to attend the hearing because of illness, infirmity or imprisonment; or

(b) The witness cannot be compelled to attend the hearing by subpoena.

The application shall state the case number, name and address of the witness, show the materiality of the testimony, and shall request an order requiring the witness to appear and testify before a named officer authorized by law to take depositions. Where the witness resides outside the State and the Board has authorized a deposition of the witness, the Board shall obtain an order of the Superior Court in Sacramento County for that purpose pursuant to Section 11189 of the Government Code.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(h), 3563(g), 71639.1 and 71825, Government Code; and Section 99561(g), Public Utilities Code.

32305.           ~~Failure to File Exceptions~~ Finality of Board Agent Decisions.

(a) Unless a party files a timely statement of exceptions to the proposed decision, the decision shall become final on the date specified therein.

(b) In cases arising under Section 32761, 32770, 32781, 33050, 33070, 33700, 40170, 40200, 51030, 51040, 51100, 51680, 61210, 61300, 61350, 61400, 61450, 71030, 71040, 71100, 71680, 81210, 81300, 81350, 81400, 81450, 91210, 91300, 91350, 91400, or 91450, and where exceptions are filed pursuant to Section 32300, the Board agent's decision shall become final unless the Board itself issues a decision not later than 180 days from the date the exceptions were filed with the Board.

(c) The Board shall not grant extensions of time in cases before the Board itself that are subject to subparagraph (b), above.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b),<sub>2</sub> and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3509.3, 3513(h), 3520.8, 3541.3(k), (n), 3541.35, 3563(j), (m), 3563.5, 71639.1, 71639.15, and 71825, and 71825.05, Government Code; and Section 99561(j), (m), and 99561.4, Public Utilities Code.

32320. Decision of the Board Itself.

(a) The Board itself may:

(1) Issue a decision based upon the record of hearing, or

(2) Affirm, modify or reverse the proposed decision, order the record re-opened for the taking of further evidence, or take such other action as it considers proper.

(b) The Board shall serve a copy of the decision on each party.

(c) All decisions and orders issued by the Board itself are precedential and may be cited in any matter pending before a Board agent or the Board itself, except as set forth in subsection (d). The precedential status of decisions issued by the Board itself includes all decisions issued prior to July 1, ~~1997~~ 2013.

(d) Effective July 1, 2013, a majority of the Board members issuing a decision or order pursuant to an appeal filed under Section 32635 shall determine whether the decision or order, or any part thereof, shall be designated as precedential. In determining whether all or part of such a decision or order shall be designated as precedential, the Board may consider whether the decision or order:

(1) Establishes new law or policy;

(2) Applies existing law to a set of facts significantly different from those stated in prior precedential decisions;

(3) Modifies, clarifies or explains existing law or policy;

(4) Resolves a conflict in law;

(5) Addresses a legal or factual issue of continuing interest;

(6) Provides an overview of existing law or policy; or

(7) Is accompanied by a separate opinion concurring or dissenting on a legal issue, and designation of the majority and separate opinions as precedential would make a significant contribution to the development of public sector labor law.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), and 3563(f), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3514.5, 3541.3(k), (n), 3563(j), (m), 3563.2, 11425.60, 71639.1, and 71825, Government Code; and Sections 99561(j), (m) and 99561.2, Public Utilities Code.

32450. Request.

(a) An original and six (6) copies of a request from a party that the Board seek injunctive relief shall be filed with the General Counsel at the headquarters office. with a A copy shall be concurrently served on to the appropriate regional office as designated in sections 32075 and 32612. The request and shall include:

- (1) The written request, accompanied by reasons stating why injunctive relief is appropriate;
- (2) A copy of the unfair practice charge or complaint on which the request is based; and
- (3) Declarations, on personal knowledge, setting forth in detail all pertinent facts underlying the request for injunctive relief.

(b) Service and proof of service on the respondent is required of all documents filed with the General Counsel. Under this section, service and proof of service shall be conducted pursuant to section 32140 except that service ~~by mail must be done by personal delivery, express mail, or by another common carrier promising overnight delivery thereof. If the request is made during a work stoppage or lockout, personal service on the respondent of all documents filed with the General Counsel is required~~ facsimile transmission, or electronic mail.

(c) Notice that such a request is being made shall be provided no less than 24 hours prior to the filing to the General Counsel and the party against whom the relief is sought. Such notice may be by telephone or in person, or by any other means reasonably calculated to provide notice.

(d) An affidavit of notice shall be filed with the request. Such affidavit shall indicate to whom, at what time, and in what manner the notice required by subparagraph (c) above was accomplished.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563, 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(j), (n), 3563(i), 71639.1 and 71825, Government Code; and Section 99561(i), Public Utilities Code.

32455. Investigation.

Upon filing of a request for the Board to seek injunctive relief, the General Counsel shall initiate an investigation. The General Counsel shall give notice reasonably calculated to inform the parties an investigation is proceeding. The respondent shall be apprised of the allegations against it, and may state its position in the course of the inquiries. The original and six (6) copies of any written position statements or other documents filed with the General Counsel must be filed at the headquarters office with a copy to the appropriate regional office as designated in section 32075, and service and proof of service on the opposite party. Any filing with the General Counsel in accordance with this section ~~by mail~~, shall be ~~done by~~ personal delivery, express mail, or by another common carrier promising overnight delivery thereof. Service and proof of service on ~~opposite~~ the opposing party shall be pursuant to section 32140 except that service shall be by ~~express mail instead of first class mail~~ facsimile transmission, electronic mail, or personal delivery. The Board agent may contact and question such persons as necessary to effectuate the investigation.

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3563, 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513(h), 3541.3(j), 3563(i), 71639.1 and 71825, Government Code; and Section 99561(i), Public Utilities Code.

~~32613. On Line Filing.~~

~~(a) "On line filing" and "electronic filing" refer to utilization of the web based electronic filing service provided by the Board as an alternative means to file an unfair practice charge pursuant to this Subchapter.~~

~~(b) Utilization of on line filing requires access by the user to the following:~~

~~(1) Personal computer with a Windows or Mac operating system;~~

~~(2) Internet web browser;~~

~~(3) Internet connection; and~~

~~(4) Digital copies of any attachments that are to be submitted with the charge.~~

~~(c) Utilization of on line filing will require the user to provide an e-mail address, establish a user password, and agree to the terms of the following Disclaimer Statement found on the PERB website:~~

~~This application uses Javascript which will not work with some Ad Blocking Software. We suggest that you either turn off your Ad Blocking Software, or add our site URL (www.perb.ca.gov) to the trusted sites on your Ad Blocking Software. PERB is not responsible for difficulties encountered between your internet~~

~~provider and PERB's network. An unfair practice charge (UPC) is considered "filed" when actually received before the close of business (5 p.m.) on a regular PERB business day. (PERB Regulation 32135.) The date and time a UPC is deemed filed will be determined by the date/time stamp applied by our server which points to Santa Cruz, CA: Scrutz-net, inc. 165.227.1.1: ns.scrutz.net Service area: Western U.S. If, after submitting your UPC, you do not receive an e-mail response containing a confirmation your charge has been successfully filed within a few minutes, there was a problem with your submission and your claim will not be considered filed. Using the PERB on-line filing application does not relieve the user of the responsibility for filing the signed original plus one copy of the charge along with the original signed proof of service in the appropriate PERB office (PERB Regulations 32605 and 32615). A copy of the completed unfair practice charge and proof of service form must also be served on the party being charged (respondent) by someone other than the charging party. A proof of service form must be attached to each copy of the charge to prove that a copy of the charge has been served on the respondent. If you have uploaded your attachments at the time of electronically filing your UPC, you DO NOT need to submit copies of the same attachments through the U.S. Mail to PERB. However, a copy of the charge and all attachments must be served on the responding party. Failure to provide the original signed UPC, signed Proof of Service and attachments (if necessary) to the appropriate PERB office within 5 business days from the date stamp provided by PERB's server in your confirmation e-mail will result in the UPC being dismissed except in cases where good cause is demonstrated.~~

~~(d) Upon successful submission of an unfair practice charge, including any attachments, and the proof of service, through utilization of on-line filing, PERB will provide confirmation of receipt via e-mail to the e-mail address provided by the user.~~

Authority cited: Sections 3509(a), 3513(h), 3541.3, 3563, 71639.1(b) and 71825(b), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3513, 3514.5, 3541.3, 3541.5, 3563, 3563.2, 71639.1 and 71825, Government Code, and Sections 99561 and 99561.2, Public Utilities Code.

#### 32615. Contents of Charge.

(a) A charge may be filed alleging that an unfair practice or practices have been committed. The charge shall be in writing, signed under penalty of perjury by the party or its agent with the declaration that the charge is true, and complete to the best of the charging party's knowledge and belief, and contain the following information:



(1) The name and address of the party alleged to have engaged in an unfair practice. If the party is the State of California, the name and address of the “appointing power” as defined in Government Code Section 18524, and of the Governor shall be set forth;

(2) The name, address, and telephone number of the charging party;

(3) The name, address, and telephone number of an authorized agent of the charging party to be contacted;

(4) The sections of the Government Code and/or, under MMBA, Article 3 of the Trial Court Act, or the Court Interpreter Act, the applicable local rules, or the sections of the Public Utilities Code, alleged to have been violated;

(5) A clear and concise statement of the facts and conduct alleged to constitute an unfair practice; and

~~(6) A statement whether or not an agreement or memorandum of understanding exists between the parties, and the date and duration of such agreement or memorandum of understanding;~~

~~(7) A statement of the extent to which and the inclusive dates during which the parties have invoked any grievance machinery provided by an agreement, or, where applicable, have invoked procedures provided by the employer for resolving public notice complaints;~~

(~~8~~ 6) A statement of the remedy sought by the charging party;

(b) A charge filed under MMBA, Article 3 of the Trial Court Act, or the Court Interpreter Act alleging a violation of local rules must also contain a copy of the applicable rule(s).

(c) Service and proof of service on the respondent pursuant to Section 32140 are required.

Authority cited: Sections 3509, 3513, 3541.3, 3563, 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(n), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(m), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1, 71814, and 71825, Government Code, and Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569, Public Utilities Code.

32620. Processing of Case.

(a) When a charge is filed, it shall be assigned to a Board agent for processing.

(b) The powers and duties of such Board agent shall be to:

(1) Assist the charging party to state in proper form the information required by section 32615;

- (2) Answer procedural questions of each party regarding the processing of the case;
  - (3) Facilitate communication and the exchange of information between the parties;
  - (4) Make inquiries and review the charge and any accompanying materials to determine whether an unfair practice has been, or is being, committed, and determine whether the charge is subject to deferral to arbitration, or to dismissal for lack of timeliness.
  - (5) Dismiss the charge or any part thereof as provided in Section 32630 if it is determined that the charge or the evidence is insufficient to establish a prima facie case; or if it is determined that a complaint may not be issued in light of Government Code Sections 3514.5, 3541.5, 3563.2, 71639.1(c) or 71825(c), or Public Utilities Code Section 99561.2; or if it is determined that a charge filed pursuant to Government Code section 3509(b) is based upon conduct occurring more than six months prior to the filing of the charge.
  - (6) Place the charge in abeyance if the dispute arises under MMBA, HEERA, TEERA, Trial Court Act or Court Interpreter Act and is subject to deferral to final and binding arbitration pursuant to a collective bargaining agreement, and dismiss the charge at the conclusion of the arbitration process unless the charging party demonstrates that the settlement or arbitration award is repugnant to the purposes of MMBA, HEERA, TEERA, Trial Court Act or Court Interpreter Act, as provided in section 32661.
  - (7) Issue a complaint pursuant to Section 32640.
- (c) The respondent shall be apprised of the allegations, and may state its position on the charge during the course of the inquiries. Any ~~written~~ response must be in writing, and signed under penalty of perjury by the party or its agent with the declaration that the response is true and complete to the best of the respondent's knowledge and belief. Service and proof of service pursuant to Section 32140 are required.
- (d) ~~Facts obtained from oral responses that reveal potential deficiencies in the allegations must be communicated to the charging party before dismissal of a charge under Section 32630.~~ The Board agent shall advise the charging party in writing of ~~the~~ any deficiencies in the charge in a warning letter, unless otherwise agreed by the Board agent and the charging party, prior to dismissal of any allegations contained in the charge. The warning letter shall identify the facts obtained from the charge or any response to the charge which reveal a deficiency in the charge. ~~Responses which are obtained after the warning letter and which support dismissal of the charge must be communicated to the charging party before the dismissal is issued under Section 32630.~~ The dismissal of a charge shall also be in writing and must identify the deficiencies in the charging party's allegations.

Authority cited: Sections 3509(a), 3513(h), 3541.3(g), 3563(f), 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3502.5, 3509, 3513(h), 3514.5, 3515.7, 3519, 3519.5, 3523, 3541.3(i), 3541.5, 3543.5, 3543.6, 3546.5, 3547, 3547.5, 3563(h), 3563.2, 3571, 3571.1, 3571.3, 3584, 3587, 3595, 71632.5, 71639.1 and 71825, Government Code; Sections 99561(h), 99561.2, 99563.7, 99563.8, 99566.3, and 99569,

Public Utilities Code; Firefighters Union, Local 1186 v. City of Vallejo (1974) 12 Cal.3d 608, and Coachella Valley Mosquito and Vector Control District v. Public Employment Relations Board (2005) 35 Cal.4th 1072 [~~29 Cal.Rptr.3d 234~~].

32661. Repugnancy Claims.

(a) An unfair practice charge concerning conduct subject to Government Code Section 3514.5(a)(2) or 3541.5(a)(2), or subject to final and binding arbitration pursuant to a collective bargaining agreement for parties governed by the TEERA, MMBA, HEERA, Trial Court Act or Court Interpreter Act, may be filed based on a claim that the settlement or arbitration award is repugnant to the applicable Act.

(b) The charge shall comply with the requirements of Section 32615. It shall allege with specificity the facts underlying the charging party's claim that the arbitrator's award is repugnant to the purposes of the applicable Act.

(c) In reviewing the charge to determine whether a complaint shall issue, the Board agent shall have all of the powers and duties specified in ~~Section 32620~~ Sections 32620, 32630, and 32640. A Board agent's issuance of a complaint under this section shall not be appealable to the Board itself except as provided in Section 32360.

(d) The Board itself may, at any time, direct that the record be submitted to the Board itself for decision.

Authority cited: Sections 3509, 3513, 3541.3, 3563, 71639.1(b) and 71825(b), Government Code; and Section 99561(f), Public Utilities Code. Reference: Sections 3509, 3514.5, 3519, 3519.5, 3541.5, 3543.5, 3543.6, 3563.2, 3571, 3571.1, 3571.3, 3589, 71639.1 and 71825, Government Code; and Sections 99561(h), 99561.2, 99563.7, 99563.8 and 99567, Public Utilities Code.

32798. Appointment of Person to Chair Factfinding Panel Under EERA and HEERA.

(a) Under EERA, the Board shall select and appoint the chairperson unless notified by the parties that they have mutually agreed upon a person to chair the panel in lieu of a chairperson selected by the Board.

(b) Under HEERA, the Board shall select and appoint the chairperson unless notified by the parties that they have mutually agreed upon a person to chair the panel in lieu of a chairperson selected by the Board, and that the parties have agreed to waive any requirement that the Board bear the costs of the panel chairperson.

Authority cited: Sections 3541.3(g) and 3563(f), Government Code. Reference: Sections 3548.1 and 3591, Government Code.

## **~~Article 7. Arbitration Procedures~~**

### ~~32810. List of Arbitrators.~~

~~A list of persons to serve as arbitrators in disputes shall be established by the Board and shall be maintained at all regional offices and shall be made available to the parties.~~

Authority cited: Sections 3513(h), 3541.3(g) and 3563(f), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3513(h), 3541.3(d), 3548.5, 3548.6 and 3589(d), Government Code, and Sections 99561(d) and 99567, Public Utilities Code.

### ~~32811. Selection of Arbitrators.~~

~~The parties to a written agreement may at their own initiative select an arbitrator. If the parties choose not to or are unable to select an arbitrator, they may request assistance from the Board. The request shall be filed in the appropriate regional office.~~

~~If, pursuant to an agreement, the parties request Board assistance, the Board shall furnish the parties with:~~

~~(a) The complete list of arbitrators maintained by the Board; and/or~~

~~(b) A list containing an odd number of arbitrators from which the parties may select an arbitrator or, failing agreement, may alternately strike names from the list with the last name being the arbitrator selected. Either party may reject one list furnished and may request a new list.~~

Authority cited: Sections 3513(h), 3541.3(g) and 3563(h), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3513(h), 3541.3(d), 3548.5, 3548.6 and 3589(d), Government Code, and Section 99567, Public Utilities Code.

### ~~32812. Notification of Selection.~~

~~Upon selection of an arbitrator from the list provided pursuant to Section 32811, the parties shall promptly notify the Board of their selection. Once an arbitrator is selected, the parties shall make all arrangements for the arbitration directly with the arbitrator.~~

Authority cited: Sections 3513(h), 3541.3(g) and 3563(f), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3513(h), 3541.3(d), 3548.5, 3548.6 and 3589(d), Government Code, and Section 99567, Public Utilities Code.

### ~~32813. Cost of Arbitration.~~

~~The cost of the arbitration shall be the responsibility of the parties.~~

Authority cited: Sections 3513(h), 3541.3(g) and 3563(f), Government Code, and Section 99561(f), Public Utilities Code. Reference: Sections 3513(h), 3541.3(d), 3548.5, 3548.6 and 3589(d), Government Code, and Section 99567, Public Utilities Code.

61090. Recognition.

If only one employee organization qualifies to appear on the ballot and the organization has demonstrated proof of majority support in the appropriate unit, the Board shall cancel the election, and certify the organization as the exclusive representative unless the public agency has granted recognition ~~the public agency shall grant recognition.~~

Authority cited: Section 3509(a) and 3541.3(g) and (n), Government Code. Reference: Sections 3507, 3507.1(a), (c), 3509 and 3541.3(l), Government Code.

### Article 3. Petition for Certification or Recognition

61210. Petition for Certification.

(a) An employee organization may file a petition for certification, by means of an election, to become the exclusive representative of an appropriate unit consisting of a group of employees who are not included in an established unit represented by an exclusive representative. The petition shall be filed with the appropriate regional office; be signed by an authorized agent of the employee organization; and include the following information:

(1) The name, address and telephone number of the employee organization and the name, address and telephone number of the agent to be contacted;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A description of the proposed appropriate unit, including the classifications and positions to be included and those to be excluded;

(4) The approximate number of employees in the proposed appropriate unit;

(5) The name and address of any other employee organization, if any, known to have an interest in representing the employees covered by the unit.

(b) The petition shall be accompanied by proof of at least 30 percent support of the employees in the unit claimed to be appropriate. Proof of support is defined in Section 61020 of these regulations.

(c) Service of the petition, excluding the proof of ~~at least 30 percent~~ support, and proof of service pursuant to Section 32140 are required.

Authority cited: Section 3509(a) and 3541.3(g) and (n), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code.

61215. Petition for Recognition.

(a) An employee organization may file a petition for recognition as the exclusive representative of an appropriate unit consisting of a group of employees who are not included in an established unit represented by an exclusive representative. The petition shall be filed with the appropriate regional office; be signed by an authorized agent of the employee organization; and include the following information:

(1) The name, address and telephone number of the employee organization and the name, address and telephone number of the agent to be contacted;

(2) The name, address and telephone number of the employer and the name, address and telephone number of the agent to be contacted;

(3) A description of the proposed appropriate unit, including the classifications and positions to be included and those to be excluded;

(4) The approximate number of employees in the proposed appropriate unit;

(5) The name and address of any other employee organization, if any, known to have an interest in representing the employees covered by the unit.

(b) The petition shall be accompanied by proof of at least majority support of the employees in the unit claimed to be appropriate. Proof of support is defined in Section 61020 of these regulations.

(c) Service of the petition, excluding the proof of support, and proof of service pursuant to Section 32140 are required.

Authority cited: Section 3509(a) and 3541.3(g) and (n), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code.

61220. Posting Notice of Petition for Certification or Recognition.

(a) The employer shall post a notice of the a petition filed pursuant to either section 61210 or 61215, as provided by the Board, as soon as possible but in no event later than 10 days following service of a copy of the petition.

(b) The notice shall be posted conspicuously on all employee bulletin boards in each facility of the employer in which members of the unit claimed to be appropriate are employed.

(c) The notice shall remain posted for 15 workdays.

(d) The employer shall inform the regional office and the parties in writing of the locations and date of posting of the notice.

Authority cited: Section 3509(a) and 3541.3(g) and (n), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code.

61240. Determination of Proof of Support.

(a) Within 20 days of the date of service of a copy of the petition for certification or recognition, the employer shall file with the regional office an alphabetical list, including job titles or classifications, of the employees employed in the claimed unit as of the last date of the payroll period immediately preceding the date the petition was filed, unless otherwise directed by the Board.

(b) If after initial determination the proof of support is insufficient, the Board may allow up to 10 days to perfect the proof of support.

(c) Upon completion of the review of the proof of support, the Board shall inform the parties in writing of the final determination as to sufficiency or lack thereof regarding the proof of support. ~~The Board's determination shall also indicate whether proof of majority support has been established.~~

(d) ~~The~~ A petition for certification shall be dismissed if the Board determines that the petition lacks at least 30 percent proof of support.

(e) A petition for recognition shall be dismissed if the Board determines that the petition lacks proof of majority support.

Authority cited: Section 3509(a) and 3541.3(g) and (n), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code.

61250. Employer Response Regarding Petition for Certification.

(a) Within 15 days following service of a Board determination finding sufficient proof submitted in support of ~~the~~ a petition for certification, the employer shall file a written response with the regional office.

(b) Service and proof of service of the response pursuant to Section 32140 are required.

(c) The employer shall use the following format for its response regarding a petition for certification:

(1) Name, address and telephone number of the employer and name, address and telephone number of the employer's agent to be contacted;

(2) Attach a copy of the petition for certification;

(3) Employer position regarding the petition for certification:

(A) Does the employer reasonably doubt the appropriateness of the unit proposed by the petitioner? If so, what classifications or positions remain in dispute? What is the employer's position regarding the dispute?

(B) Does the employer believe that there are other reasons why a representation election should not be held in the proposed unit? If so, please fully explain.

Authority cited: Section 3509(a) and 3541.3(g) and (n), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code.

61255. Employer Response Regarding Petition for Recognition.

(a) Within 15 days following service of a Board determination finding sufficient proof submitted in support of a petition for recognition, the employer shall file a written response with the regional office.

(b) Service and proof of service of the response pursuant to Section 32140 are required.

(c) The employer shall use the following format for its response regarding a petition for recognition:

(1) Name, address and telephone number of the employer and name, address and telephone number of the employer's agent to be contacted;

(2) Attach a copy of the petition for recognition;

(3) Employer position regarding the petition for recognition:

(A) Does the employer reasonably doubt the appropriateness of the unit proposed by the petitioner? If so, what classifications or positions remain in dispute? What is the employer's position regarding the dispute?

(B) Does the employer believe that there are other reasons why recognition should not be granted in the proposed unit? If so, please fully explain.

Authority cited: Section 3509(a) and 3541.3(g) and (n), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code.

61260. Amendment of Petition for Certification or Recognition.

(a) A petition ~~for certification~~ may be amended to correct technical errors or to add or delete job classifications from the proposed unit at any time prior to the issuance of a notice of hearing. The amendment shall be filed with the regional office and provide the information



required in Section 61210(a). Service and proof of service of the amendment pursuant to Section 32140 are required.

(b) In addition, amendments to add new job classifications to a proposed unit shall be subject to the following:

(1) Additional proof of support, if needed to maintain standing as a petitioner, shall be filed with the regional office concurrently with the amendment.

(2) An employer response to the amended petition shall be filed with the regional office within 15 days following the service of the Board determination of adequacy of proof submitted in support of the petition, unless otherwise directed by the Board. The response shall conform to the requirements for employer responses set forth in Section 61250.

(c) Amendments to correct technical errors or to add or delete job classifications from a party's proposed unit which are requested after the issuance of the notice of hearing are subject to approval by the hearing officer. The hearing officer may grant the requested amendment, so long as it will not serve to unduly impede the hearing and provided that sufficient proof of support is evidenced to support any request for addition of job classifications. Posting of any such amendments shall be at the discretion of the Board agent.

Authority cited: Section 3509(a) and 3541.3(g) and (n), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(l), Government Code.

#### 61270. Board Investigation.

Whenever a petition for certification or recognition is filed with the Board, the Board shall investigate and, where appropriate, conduct a hearing and/or a representation election, or take such other action as deemed necessary to decide the questions raised by the petition.

Authority cited: Section 3509(a) and 3541.3(g) and (n), Government Code. Reference: Sections 3507, 3507.1, 3507.3, 3507.5, 3508, 3509 and 3541.3(h) and (l), Government Code.

#### 61275. Certification of Exclusive Representative.

If the Board determines (1) an employee organization requesting recognition has demonstrated at least majority proof of the employees in an appropriate unit, (2) no other employee organization has demonstrated proof of support of at least 30 percent of the employees, and (3) the public agency has not granted recognition, the Board shall certify the petitioner as the exclusive representative.

Authority cited: Section 3509(a) and 3541.3(g) and (n), Government Code. Reference: Sections 3507, 3507.1(a), (c), 3509 and 3541.3(l), Government Code.